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March 7, 2022

Honorable Vernon S. Broderick  
United States District Judge  
Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Foley Square, Room 415  
New York, New York 10007

**Re: S.S., individually and on behalf of T.S-W. v. New York City Dept. of Educ.,  
Index No. 20-cv-9394-VSB**

Dear Hon. Broderick:

I am counsel for the Plaintiff in this matter, which involves in pertinent part an appeal of an SRO decision. Typically, one party or the other files the certified record under seal. Pursuant to this Court's Order at ECF 58 and to Rule 5.B.iii.b of Your Honor's Individual Rules & Practices in Civil Cases, the parties hereby identify the following explanation of reasons for seeking filing of the SRO record on appeal under seal.

S.S. and her son, T.S-W., a minor child with a disability, have a regularly recognized and established right to privacy concerning the type of documents proposed; namely, the administrative record of an Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1400 *et seq.*, impartial due process hearing. *See, e.g., R.G. v. New York City Dept. of Educ.*, S.D.N.Y. Index No. 18-cv-12119-JPC-RWL, Dkt. 21, 22; *A.M. v. New York City Dept. of Educ.*, S.D.N.Y. Index No. 14-cv-09224-JPO-RWL, Dkt. 7, 8; *Donohue v. New York City Dept. of Educ.*, S.D.N.Y. Index No. 20-cv-1942-ALC-KHP, Dkt. 13 (Order for filing certified record from Office of State Review under seal); *Rutherford v. Florida Union Fr. Sch. Dist.*, S.D.N.Y. Index No. 7:16-cv-09778-KMK, Dkt. 202 (Memo Endorsement); 20 U.S.C. §§ 1232g, 1415, 1417(c). The administrative record itself is also replete with Individualized Education Program ("IEP") documents, student assessments, data collection on the student, and similar records that are independently confidential. Notably, in addition to the IDEA and the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g, New York's regulations implementing the IDEA require the confidentiality and preservation thereof as to personally identifiable data, information, or records pertaining to students with disabilities. 8 N.Y.C.R.R. §§ 200.2(b)(6), (b)(11)(ii), 200.5(e).

Thank you for your consideration of this matter.

Respectfully,

s/ Benjamin M. Kopp  
Benjamin M. Kopp, Esq.

The request to seal the administrative record is granted. (Doc. 56.) The parties are directed to Rule 5.B. of my Individual Rules & Practices in Civil Cases and to meet and confer as necessary to determine if the administrative record can be filed in redacted form on ECF.

**SO ORDERED:**

03/08/22

**HON. VERNON S. BRODERICK  
UNITED STATES DISTRICT JUDGE**